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96TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT No. 96-1350

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1981

SEPTEMBER 19, 1980.—Ordered to be printed

Mr. BOLAND, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2597]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

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(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1981, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany S. 2597 of the 96th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1981, funds may not be obligated or expended for any program for which funds are authorized to be appropriated by section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authorizations described in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 105. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1981 the sum of $11,400,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

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TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $17,824,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-five full-time personnel as of September 30, 1981. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1981, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1981, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1981, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

FUNDS TRANSFERS BY THE SECRETARY OF DEFENSE

SEC. 401. (a) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

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"§ 140a. Secretary of Defense: funds transfers for foreign cryptologic support

"The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support. Payments under this section may be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"140a. Secretary of Defense: funds transfers for foreign cryptologic support.".

ADMINISTRATIVE PROVISIONS RELATING TO THE NATIONAL SECURITY AGENCY

SEC. 402. (a)(1) The Act entitled "An Act to provide certain administrative authorities for the National Security Agency, and for other purposes" approved May 29, 1959 (50 U.S.C. 402 note), is amended by adding at the end thereof the following new sections:

"SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

"(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

"(1) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (1), (2), (7), (9), (10), and (11) of section 911, and under sections 912, 914, 933, 941, 942, and 945, of the Foreign Service Act of 1946 (22 U.S.C. 1136(1), (2), (7), (9), (10), (11), 1137, 1138a, 1148, 1156, 1157, 1160); and

"(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense determines that it would be in the public interest to provide such housing.

"(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

"SEC. 10. The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one

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year or longer which involves cryptologic training, language training, or related disciplines.

"SEC. 11. The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.".

(2) Such Act is further amended by inserting after the enacting clause the following: "That this Act may be cited as the 'National Security Agency Act of 1959' ".

(b) Any individual who is liable to the United States for any overpayment which was made to or on behalf of such individual before October 1, 1980, under chapter 57 of title 5, United States Code, while such individual was an employee of or assigned to duty with the National Security Agency and which was subsequently determined to be subject to the limitations contained in section 4109(a)(2)(B) of such title is hereby relieved of liability to the United States for such overpayment.

AUTHORITY TO PAY DEATH GRATUITIES

SEC. 403. (a) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) is amended by adding at the end thereof the following new section:

"AUTHORITY TO PAY DEATH GRATUITIES

"SEC. 11. (a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

"(A) resulted from hostile or terrorist activities; or

"(B) occurred in connection with an intelligence activity having a substantial element of risk.

"(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

"(b) Any payment under subsection (a)—

"(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

"(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

"(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).".

(b)(1) Chapter 75 of title 10, United States Code, relating to death benefits, is amended by adding at the end thereof the following new section:

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"§ 1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties

"(a) The Secretary of Defense may pay a gratuity to the surviving dependents of any member of the Armed Forces or of any employee of the Department of Defense—

"(1) who—

"(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such a member or employee is disguised or concealed; or

"(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

"(2) who after the date of the enactment of this section dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

"(A) resulted from hostile or terrorist activities; or

"(B) occurred in connection with an intelligence activity having a substantial element of risk.

"(b) Any payment under subsection (a)—

"(1) shall be in an amount equal to the amount of the annual basic pay or salary of the member or employee concerned at the time of death;

"(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by this chapter or any other Federal law; and

"(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"Sec. 1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties.".

SPECIAL PROVISIONS RELATING TO THE WELFARE OF PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 404. The Central Intelligence Agency Act of 1949 is amended by adding after section 11 (as added by section 403(a)) the following new section:

"AUTHORITY TO ACCEPT GIFTS, DEVISES, AND BEQUESTS

"SEC. 12. (a) Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by any such gift) may be used only for artistic display or for purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, and under no circumstances may such a gift (or any income produced by any such gift) be used for operational purposes. The Director may not accept any gift under this section which is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

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"(b) Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under this section, but any such investment may only be in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

"(c) There is hereby created on the books of the Treasury of the United States a fund into which gifts of money, securities, and other intangible property accepted under the authority of this section, and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a) or (b).

"(d) For purposes of Federal income, estate, and gift taxes, gifts accepted by the Director under this section shall be considered to be to or for the use of the United States.

"(e) For the purposes of this section, the term 'gift' includes a bequest or devise.".

AUTHORITY TO REMEDY UNJUSTIFIED PERSONNEL ACTIONS

SEC. 405. (a) Whenever the Director of Central Intelligence finds during fiscal year 1981 that an employee or former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such employee or former employee, the Director may grant such employee or former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

GRANTING OF ADVANCED DEGREE AT DEFENSE INTELLIGENCE SCHOOL

SEC. 406. (a) Part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 108—GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS

"Sec.
"2161. Defense Intelligence School: master of science of strategic intelligence.

"§ 2161. Defense Intelligence School: master of science of strategic intelligence

"Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence School may, upon recommendation by the faculty of such school, confer the degree of master of science of strategic intelligence upon graduates of the school who have fulfilled the requirements for that degree.".

(b) The table of chapters at the beginning of subtitle A of title 10, United States Code, and the table of chapters at the beginning of part III of such subtitle are each amended by inserting after the item relating to chapter 107 the following new item:

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"108. Granting of Advanced Degrees at Department of Defense Schools..... 2161".

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 407. (a) Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is amended—

(1) by striking out "(a)" before "No funds";

(2) by striking out "and reports, in a timely fashion" and all that follows in subsection (a) and inserting in lieu thereof a period and the following: "Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947."; and

(3) by striking out subsection (b).

(b)(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"CONGRESSIONAL OVERSIGHT

"SEC. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

"(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'intelligence committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities; and

"(3) report in a timely fashion to the intelligence committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

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"(b) The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

"(c) The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (a) and (b).

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of the Congress under this section. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.".

(2) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"Sec. 501. Congressional oversight.".

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 408. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

EDWARD P. BOLAND,
BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,

For consideration of matters within the jurisdiction of the Armed Services Committee under clause 1(c) of Rule X:

MELVIN PRICE,
RICHARD H. ICHORD,
BOB WILSON,

Solely for consideration of such provisions of sections 408 and 409 and modifications thereof as fall within the juris-

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diction of the Foreign Affairs Committee under clause 1(h) of Rule X:

DANTE B. FASCELL,
WM. S. BROOMFIELD,
EDWARD J. DERWINSKI,
Managers on the part of the House.

BIRCH BAYH,
ADLAI E. STEVENSON,
WALTER D. HUDDLESTON,
DANIEL K. INOUYE,
HENRY M. JACKSON,
DANIEL PATRICK MOYNIHAN,
JOSEPH R. BIDEN, Jr.,
BARRY GOLDWATER,
CHARLES McC. MATHIAS, Jr.,
JOHN H. CHAFEE,
MALCOLM WALLOP,
DAVID DURENBERGER,
RICHARD G. LUGAR,

For consideration of matters of interest to the Armed Services Committee:

SAM NUNN,
Managers on the part of the Senate.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses as stated in such classified annexes and supplement are shown below or in the classified annex to this joint statement.

In view of the differences in committee jurisdiction between the two Houses over intelligence-related activities (IRA), the differences in IRA programs between the House and Senate were resolved by a special conference group. This group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for IRA represent the funding levels jointly agreed to by the IRA conferees and the house and Senate conferees for the Department of Defense Authorization Act, 1981, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addition, the IRA conferees have agreed on the authorization level, as listed in the classified Schedule or Authorizations, the joint statement and its classified annex for IRA programs which fall into the appropriation categories of Military Pay, Operations and Maintenance, Other Procurement, and Military Construction.

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Section 103 of the House amendment provided that each individual ceiling established specifically in the Schedule of Authorizations will be a limitation on obligation and expenditure except by notification of the appropriate committees of Congress. The Senate bill contained no similar provision.

The Senate agreed to the House provision.

Section 105 of the House amendment authorized appropriations of $11,400,000 for the counterterrorism activities of the Federal Bureau of investigation. The Senate bill contained no such specific provision.

The Senate agreed to the House provision.

TITLE II—INTELLIGENCE COMMUNITY STAFF

CONFERENCE ACTIONS, FISCAL YEAR 1981 (SEC. 201)

[In millions of dollars]

Project	Fiscal year 1981 budget request [1]	House action	Senate action	Conference authorization
External contracts	2.6	−0.7		1.9
Not subject to conference	15.9			15.9
Total IC Staff funding	18.5	−0.7		17.8

[1] As amended Apr. 14, 1980.

The Senate agreed to the House position which provides for a reduction of $700,000 for Intelligency Community Staff external contracts.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

There was no conference difference to be resolved on title III. Both the House and the Senate authorized $55,300,000, the amount requested.

TITLE IV—GENERAL PROVISIONS

FUND TRANSFERS BY THE SECRETARY OF DEFENSE (SEC. 401)

The Senate bill contained a provision (Sec. 403) amending Chapter 4, Title 10, United States Code, authorizing the Department of Defense to use funds authorized and appropriated to the Department to pay expenses of arrangements with foreign countries for cryptologic support. The House amendment (Sec. 402) provided for similar authority during fiscal year 1981 only.

The conferees agreed to the Senate languange with minor drafting changes.

ADMINISTRATIVE PROVISIONS RELATING TO THE NATIONAL SECURITY AGENCY (SEC. 402)

The Senate bill contained a provision (Sec. 404) amending the Act of May 29, 1959 (50 U.S.C. 402 note) providing certain adminis-

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trative authorities for the National Security Agency (NSA). The Senate amendments would enable the Director of the NSA to lease or rent facilities overseas for special cryptologic activities and for housing for personnel assigned to such activities, to provide benefits comparable to those of State Department and Central Intelligency Agency to certain employees in special assignments overseas, and to provide certain allowances to cryptologic personnel assigned overseas for long term training. This section of the Senate bill also contained an authorization to waive any claims by the united States for overpayments made to cryptologic personnel previously assigned overseas for long term training and relieves those employees of liability for any claim based on such overpayment.

The House amendment (Sec. 403 and Sec. 404) provided for similar authority to the Director of the NSA during fiscal year 1981.

The conferees agreed to revised language incorporation similar authorities contained in both the House and Senate versions.

The Senate bill (Sec. 405) and House amendment (Sec. 404) also contained a provision authorizing the Administrator of the General Services Administration (GSA) to provide police protection for certain NSA installations in the same manner as Federal Protective Service police protect federal buildings under the control of GSA. The House amendment limited this authority to fiscal year 1981. The conferees agreed to the House language without the single fiscal year limitation. The conference report appends all the above mentioned provisions to, and provides a new title for, the Act of May 29, 1959 (50 U.S.C. 402).

AUTHORITY TO PAY DEATH GRATUITIES (SEC. 403)

Section 406 of the Senate bill authorized payment of a death gratuity to dependents of employees of the Central Intelligence Agency and the National Security Agency who die as a result of injuries sustained outside the United States when it has been determined that death resulted from hostile or terrorist action, or occurred in connetion with an intelligency activity having a substantial element of risk.

The House amendment (Sec. 406) contained similar authority for fiscal year 1981, but included in addition to survivors of Central Intelligence Agency employees, survivors of all Department of Defense officers or employees or members of the Armed Forces assigned to and serving undercover in an intelligence component of the Department of Defense, or engaged in clandestine intelligence activities involving a substantail element of risk.

The conferees agreed to the House language without the single fiscal year limitation, amended the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) and Chapter 75 of Title 10, United States Code, to provide death gratuity payment authority for Central Intelligence Agency and Department of Defense personnel, respectively.

The conferees wished to reemphasize that death gratuities of the type authorized by the conference report are intended to be in addition to any other pension, health insurance or other death related payments made by the Federal Government, but are not meant to be in addition to other lump-sum death gratuities unrelated to the above type payments. The intent of new section 11(b)(2)

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of the Central Intelligence Agency Act and new section 1489(b)(2) of title 10, United States Code, is to make clear that when an individual's surviving dependents would, but for the language of these provisions, be eligible for two such lump-sum payments from the Federal Government, that the payment authorized by sections 11(a) or 1489(a) respectively would supersede the other payment if the payment under section 11(a) or 1489(a) is larger, and that it would be the exclusive payment of a lump-sum death gratuity unrelated to Federal retirement, health insurance or other survivor benefits.

SPECIAL PROVISIONS RELATING TO THE WELFARE OF PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY (SEC. 404)

The Senate bill (Sec. 402) contained a provision authorizing the Director of Central Intelligence to accept gifts, bequests, and property on behalf of the Agency whenever he determines that it is in the interest of the United States to do so. The House amendment contained no similar provision.

The conferees agreed to the Senate provision with minor changes. The conferees agreed further to request periodic reports to the intelligence committees concerning the operation of this section.

AUTHORITY TO REMEDY UNJUSTIFIED PERSONNEL ACTIONS (SEC. 405)

The Senate bill (Sec. 402) contained a provision authorizing the Director of Central Intelligence to grant monetary or other relief to employees or former employees of the Central Intelligence Agency whenever the Director determined that an employee's, or former employee's, career had suffered due to unjustified personnel or administrative action. The House amendment contained no similar provision.

The conferees agreed to the Senate provision with minor changes except that the Director's authority to make findings concerning unjustified personnel actions can be exercised only during fiscal year 1981 and is limited to those cases resulting from allegations concerning the employee's, or former employee's, loyalty to the United States. The conferees wish to emphasize that the enactment of a provision to remedy unjustified personnel actions is not intended to eliminate any cause of action an employee or former employee may have. Appropriate settlements entered into by such employees or former employees in connection with remedial actions taken pursuant to this provision may resolve such causes of action.

GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS (SEC. 406)

The Senate bill (Sec. 407) contained a provision amending Title 10, United States Code, to authorize the granting of a degree of Master of Science in Strategic Intelligence by the Defense Intelligence School. The House amendment contained no similar provision.

The House agreed to the Senate provision.

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PRESIDENTIAL FINDINGS AND CONGRESSIONAL OVERSIGHT FOR INTELLIGENCE ACTIVITIES (SEC. 407)

The Senate bill contained provisions (Sec. 408 and Sec. 409) providing for comprehensive oversight of all intelligence activities by the intelligence committees of the House and Senate, including a revision of the so-called Hughes-Ryan amendment to the Foreign Assistance Act (22 U.S.C. 2224) which requires reporting to Congress of certain CIA activities conducted abroad.

The House bill contained no comparable provisions.

The congressional oversight provisions of the Senate bill establish a permanent statutory basis for the oversight procedures that have been developed by the select committees and the executive branch over the past four years. They are predicated on two general principles. The first is respect for the authorities and duties of both the Congress and the executive branch, including the constitutional authorities of each branch. The second is the duty of both branches through mutual consultation to ensure that sensitive information is securely handled so that the interests of the United States are protected.

Both of these principles are to be taken into account as limitations on the obligations imposed by the statute. For example, the statute would not preclude an executive branch assertion of constitutional authority to take actions to defend the nation, nor does the statute limit the congressional power of inquiry under the Constitution. Moreover, since both branches agree upon their duty to protect intelligence sources and methods, the select committees have worked out procedures and practices under which by agreement certain information is usually not sought by the committees. Examples of such information may include the identities of agents or other sources of intelligence collection.

It is agreed by both the committees and the executive branch that the protection of intelligence sources and methods is not to be used as a device to place one branch in a position of advantage. By agreement both branches recognize that particular circumstances will require the exercise of unusual care and discretion. The protection of sources and methods is a means to protect the vital interests of the U.S. and is not an end in itself. Consequently, over the past four years the intelligence oversight committees have consulted with the executive branch to determine those areas where, on the basis of past experience and a reasonable sense of future needs, there might be good and sufficient reason to withhold information when some compelling reasons arise from extraordinary circumstances where the vital interests of the U.S. are involved.

The clear intent of these two principles is to ensure that the legitimate concerns of both branches and the interests of the nation as a whole are respected. Neither the executive branch nor the legislative branch is giving up any powers, authorities or rights it may have; rather, both branches recognize the powers, rights, authorities and duties of the other. Through this legislation there are established procedures by which both branches may carry out their separate and joint responsibilities and duties to protect the nation through the use of intelligence information.

Four duties are imposed upon executive branch officials. First, they are to keep the select committees "fully and currently in-

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formed" of intelligence activities.[1] Second, they are to provide advance information to the select committees regarding "significant anticipated intelligence activities," such as covert operations and certain other intelligence activities specified in consultation with the executive branch. Third, they are to furnish any information or material concerning intelligence activities requested by the select committees in order to carry out the select committees' authorized responsibilities. Fourth, they are to provide timely reports on illegal intelligence activities and significant intelligence failures.

Provision is also made for procedures to be followed in those rare, extraordinary and compelling circumstances when advance information might be withheld from the select committees. If the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital national interests, such prior notice is to be given to eight congressional leaders. If prior notice of a covert operation is not given, the president must fully inform the select committees in a timely fashion and provide a statement of the reasons for not giving prior notice.

The statute authorizes the President and the select committees to establish the procedures necessary for carrying out these requirements. In addition, each House is to establish procedures for protecting sensitive information furnished under the statute from unauthorized disclosure, and for notifying each House and other appropriate committees of matters requiring their attention.

Concern was expressed by the House conferees that the provisions for the protection of information from "unauthorized disclosure" might be construed as authority to withhold information from the select committees on the grounds that providing the information to the select committees would constitute unauthorized disclosure of classified information or information relating to intelligence sources and methods. Therefore, a final provision is included to make clear that nothing in the statute may be construed in such a manner.

As stated in the report to accompany S. 2284, a separate Senate-passed bill the provisions of which are identical to the Senate oversight provisions (S. Rept. 96-730), the select committees "are authorized to receive such information." The authority of the select committees to receive highly sensitive information is reflected in other contexts as well. For example, the recently reported House and Senate versions of the Intelligence Identities Protection Act, which provides criminal penalties for disclosing identities of covert agents to any individual not authorized to receive classified information, defines the term "authorized" to include "having authority, right, or permission pursuant to the provisions of . . . any rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities." The conferees expect that mutual agreement on the need to protect vital intelligence sources and methods may result in decisions that certain information, such as the identities of covert agents, need not be furnished to the select committees in particular circumstances. Although differences have occasionally arisen under the current procedures, and

[1] The conferees agree that the term "intelligence activities" is intended to encompass the full range of intelligence and intelligence-related activities within the jurisdiction of the two select committees.

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may arise on future occasions after the enactment of this statute, it is the view of the conferees that, as in the past such differences must be resolved on the basis of comity and mutual understanding. Moreover, both branches agree that the select committees continue to have the right to obtain information they require by subpoena. As stated in the Senate report accompanying S. 2284, the statute does not provide a statutory right to withhold information from Congress when subpoenaed by Congress.

The House agreed to the Senate provision with an amendment.

TITLE OF THE BILL

The conferees agreed to the title of the House bill which reads: An Act to authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

EDWARD P. BOLAND,
BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,

For consideration of matters within the jurisdiction of the Armed Services Committee under clause 1(c) of Rule X:

MELVIN PRICE,
RICHARD H. ICHORD,
BOB WILSON,

Solely for consideration of such provisions of sections 408 and 409 and modifications thereof as fall within the jurisdiction of the Foreign Affairs Committee under clause 1(h) of Rule X:

DANTE B. FASCELL,
WM. S. BROOMFIELD,
EDWARD J. DERWINSKI,
Managers on the part of the House.

BIRCH BAYH,
ADLAI E. STEVENSON,
WALTER D. HUDDLESTON,
DANIEL K. INOUYE,
HENRY M. JACKSON,
DANIEL PATRICK MOYNIHAN,
JOSEPH R. BIDEN, Jr.,
BARRY GOLDWATER,
CHARLES McC. MATHIAS, Jr.,
JOHN H. CHAFEE,
MALCOLM WALLOP,
DAVID DURENBERGER,
RICHARD G. LUGAR,

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For consideration of matters of interest to the Armed Services Committee:

SAM NUNN,
Managers on the part of the Senate.

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